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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,907	03/29/2001	Kunihiro Shima	108384-00016	6983

6449 7590 05/30/2003

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WASHINGTON, DC 20005

EXAMINER
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WILKINS III, HARRY D

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 05/30/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

# Advisory Action

Application No.

09/787,907

Applicant(s)

SHIMA, KUNIHIRO

Examiner

Harry D Wilkins, III

Art Unit

1742

--The MAILING DATE of this communication app ars on the cover she t with th correspondence address --

THE REPLY FILED 21 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

## PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1,4 and 5.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Continuation of 2. NOTE: the new claim limitations were not present in the finally rejected claims. By adding process limitations, Applicant is attempting to change the scope of the invention, which would require further search and/or consideration and would in fact change the issues for appeal.

Continuation of 5. does NOT place the application in condition for allowance because: even assuming that the amendment to the claim was entered, the claims do not distinguish over the prior art. Applicant has not demonstrated that the difference in processing between Sato and Tenbrink compared to the present invention produces different results. Though Applicant states that the different treatment step produces a prevention of breaks in the alloy material, such a limitation is not present in the claims and comparison data has not been provided to support this assertion. For these reasons, even if the claim amendments were entered, the claims would still be rejected over the prior art of record. Since the amendment has not been entered, the reasons stated in the final rejection stand.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry Wilkins, III whose telephone number is (703) 305-9927. The examiner can normally be reached on Monday-Thursday 6:00 am -4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Roy King can be reached on (703) 308-1146. The fax phone numbers for the organization where this application of proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

May 29, 2003  
hdw

Harry D. Wilkins, III  
Examiner  
Art Unit 1742

ROY KING *R King*  
SUPERVISORY PATENT EXAMINER  
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